



S/N 09/887,272

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | |
|-------------|---|-----------------|-------------|
| Applicant: | Yu-Ming Hou et al. | Examiner: | Unknown |
| Serial No.: | 09/887,272 | Group Art Unit: | Unknown |
| Filed: | June 22, 2001 (per date stamped postcard) | Docket: | 1360.003US2 |
| Title: | PLANT GENES INVOLVED IN DEFENSE AGAINST PATHOGENS | | |

PETITION UNDER 37 C.F.R. § 1.78(a)(3)

Box DAC
Commissioner for Patents
Washington, D.C. 20231

Pursuant to 37 C.F.R. § 1.78(a)(3), Applicant requests entry of the Preliminary Amendment filed herewith which amends the "Cross-Reference to Related Applications" section of an application corresponding to Express Mail Label No. EL671641675US.

The present application (corresponding to Express Mail No. EL671641675US) was accorded Serial No. 09/887,272 and a filing date of June 22, 2001 (Exhibit A, a copy of the date stamped postcard for Express Mail No. EL671641675US). However, another application (Express Mail No. EL721275472US), filed on June 22, 2001, was accorded that same serial number (Exhibit B, a copy of the date stamped postcard for Express Mail No. EL721275472US).

On September 20, 2001, Applicant's Representatives requested that the U.S. Patent and Trademark Office (USPTO) correct this error by issuing a new serial number for the application corresponding to Express Mail No. EL671641675US (see Exhibit C). A representative of the USPTO, Janice Tippet, Assistant to the Director of OIPE, provided Applicant's Representatives with a handwritten note which indicated that the serial number for the application corresponding to Express Mail No. EL721275472US was to be accorded Serial No. 09/887,271 (Exhibit D). However, as of October 30, 2001, Applicant's Representatives have not received an official communication from the USPTO evidencing that Express Mail No. EL721275472US was issued a serial number that was different than the serial number issued to the application corresponding to Express Mail No. EL671641675US. While such a communication would provide clarity in identifying and distinguishing the two applications referred to above, on October 24, 2001, Applicant's Representatives began preparing this Petition pursuant to 37 C.F.R. § 1.78(a)(3) relying on the information in the handwritten note (Exhibit D).

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Thus, in the Preliminary Amendment filed herewith, Applicant's Representatives request that the "Cross-Reference to Related Applications" section of the application having Express Mail No. EL671641675US be amended to reflect that that application is related to an application corresponding to Express Mail No. EL721275472US.

Applicant's Representatives respectfully submit that the delay in claiming the benefit of the filing date of the application corresponding to Express Mail No. EL671641675US between the date provided under 37 C.F.R. § 1.78(a)(2) and the date on which this Petition was filed, was unintentional.

Accordingly, Applicant requests that the amendment to the specification in the Preliminary Amendment enclosed herewith be entered.

Please charge any fees deemed due to Deposit Account No. 19-0743.

Respectfully submitted,

YU-MING HOU ET AL.,

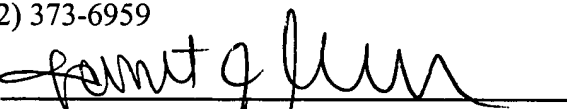
By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6959

Date

October 30, 2001

By



Janet E. Embretson
Reg. No. 39,665

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, Washington, D.C. 20231, on this 30th day of October, 2001.

Name

Dawn M. Poole

Signature

Dawn M. Poole

In re Patent Application of: Sheng Quan et al.

Title: PLANT GENES INVOLVED IN DEFENSE AGAINST PATHOGENS

Attorney Docket No.: 1360.003US²

NPN

Receipt is hereby acknowledged for the following in the United States Patent and Trademark Office:

CONTENTS: UTILITY PATENT APPLICATION: Specification (1474 pgs. including claims numbered 1 through 43 and a 1 page Abstract); Formal Drawing(s) (349 sheets); Unsigned Combined Declaration and Power of Attorney (7 pgs); Sequence Listing (5241 pages); Communication Under 37 CFR § 1.821 (1 page); A copy of the Sequence Listing in ASCII computer readable form; return postcard and transmittal sheet.

FILED WITHOUT APPLICATION FILING FEE.

EXPRESS MAIL LABEL NO. EI721275472US

Mailed: June 22, 2001

JEE/dmp

1c398 U.S. PTO
09/887272
06/22/01

EXHIBIT A

In re Patent Application of: Sheng Quan et al.
Title: PLANT GENES INVOLVED IN DEFENSE AGAINST PATHOGENS
Attorney Docket No.: 1360.003US2

NPN

Receipt is hereby acknowledged for the following in the United States Patent and Trademark Office:

CONTENTS: UTILITY PATENT APPLICATION : Specification (1855 pgs, including claims numbered 1 through 43 and a 1 page Abstract); Unsigned Combined Declaration and Power of Attorney (7 pgs); Communication Under 37 CFR § 1.821 (1 page); Two copies (CD-ROM) of the Sequence Listing in ASCII computer readable form in compliance with 37 CFR §§ 1.821(c) and 1.52(e); One copy (CD-ROM) of the Sequence Listing in ASCII computer readable form in compliance with 37 CFR §§ 1.821(e) and 1.52(e); three transmittals for CD-ROMs in compliance ~~copies~~ with 37 CFR § 1.52(e)(3)(ii); return postcard and transmittal sheet.

FILED WITHOUT APPLICATION FILING FEE.

EXPRESS MAIL LABEL NO. EL671641675US
Mailed: June 23, 2001
JEE


Jc398 U.S. PTO
09/887272

06/22/01

EXHIBIT B

S/N 09/887,272IN THE UNITED STATES PATENT AND TRADEMARK OFFICEPATENT

Applicant: Yu-Ming Hou et al. Examiner: Unknown
 Serial No.: 09/887,272 (Per date-stamped postcard) Group Art Unit: Unknown
 Filed: June 23, 2001 Docket: 1360.003US2
 Title: PLANT GENES INVOLVED IN DEFENSE AGAINST PATHOGENS

REQUEST TO CORRECT
U.S. PATENT AND TRADEMARK OFFICE ERROR



VIA Hand Delivery
 ATTN: Mr. Thomas Koontz
 Director, OIPE
 Commissioner for Patents
 Washington, D.C. 20231

This is a Request to Correct a U.S. Patent and Trademark Office Error. Applicant's Representatives filed two applications, one on June 22, 2001 (Express Mail number EL721275472US, Docket No. 1360.003US1) and the other on June 23, 2001 (Express Mail number EL671641675US, Docket No. 1360.003US2). Upon receipt of the date stamped postcard for each application, Applicant's Representatives noted that the postcards indicated that [REDACTED] the U.S. Patent and Trademark Office accorded each application the exact same filing date and serial number. A copy of each of the date stamped postcards is attached hereto.

Applicant's Representatives request that the application having Express Mail number EL671641675 (Docket No. 1360.003US2) be issued a new serial number, and that the records be corrected to reflect that the application having Express Mail number EL671641675 (Docket No. 1360.003US2) is accorded that new serial number and has a filing date of June 23, 2001.

Respectfully submitted,

YU-MING HOU ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
 P.O. Box 2938
 Minneapolis, MN 55402
 (612) 373-6959

Date September 19, 2001

By Janet E. Embretson

Janet E. Embretson
 Reg. No. 39,665

Exhibit C

From: JANICE TIPPETT
ASST TO DIRECTOR OF OIPE

09/887271 6/22/01
EL 721275472WS

09/887272 6/22/01 -
EL 671641675US
↑
NOTE:

C

EXHIBIT D



S/N 09/887,272

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | |
|-------------|---|-----------------|-------------|
| Applicant: | Yu-Ming Hou et al. | Examiner: | Unknown |
| Serial No.: | 09/887,272 | Group Art Unit: | Unknown |
| Filed: | June 22, 2001 (per date stamped postcard) | Docket: | 1360.003US2 |
| Title: | PLANT GENES INVOLVED IN DEFENSE AGAINST PATHOGENS | | |

PETITION UNDER 37 C.F.R. § 1.10(c)

Box DAC
Commissioner for Patents
Washington, D.C. 20231

Pursuant to 37 C.F.R. § 1.10(c), Applicant hereby petitions to correct an error in the filing date for the present application, an application corresponding to Express Mail No. EL671641675US, accorded Serial No. 09/887,272 and a filing date of June 22, 2001. As evidenced by a copy of the Express Mail mailing label for Express Mail No. EL671641675US (Exhibit I, enclosed herewith), the date of deposit of Express Mail No. EL671641675US was June 23, 2001. The below-signed attorney verifies that the copy of the Express Mail mailing label attached hereto is a true copy of the mailing label for Express Mail No. EL671641675US. Also enclosed herewith is a copy of a transmittal, a date stamped postcard, a Communication under 37 C.F.R. § 1.821, and page 1855 (the final page) of the specification for the application corresponding to Express Mail No. EL671641675US (Exhibit II), all of which display Express Mail No. EL671641675US.

Thus, amendment of the filing date for Express Mail No. EL671641675US is appropriate and is respectfully requested.

Please charge any fees deemed due to Deposit Account No. 19-0743.

Respectfully submitted,

YU-MING HOU ET AL.,

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6959

Date

October 30, 2001

By

[Signature]

Janet E. Embretson

Reg. No. 39665

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, Washington, D.C. 20231, on this 30th day of October, 2001.

Name

Dawn M. Hale

Signature

[Signature]

POST OFFICE TO ADDRESSEE



EL671641675US

EL671641675US

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| FROM: (PLEASE PRINT) SCHNEGEMAN LUNDBERG WOESSNER & KLUTH PA PO BOX 2938 MINNEAPOLIS MN 55402-0938 1360.003USA JEE | PHONE () BOX PATENT APPLICATION ASSISTANT COMMISSIONER FOR PATENTS WASHINGTON DC 20231-6002 9999 |
|---|--|

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EXHIBIT I

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of: Sheng Quan et al.

Title: PLANT GENES INVOLVED IN DEFENSE AGAINST PATHOGENS

Attorney Docket No.: 1360.003US2

PATENT APPLICATION TRANSMITTAL

BOX PATENT APPLICATION

Commissioner for Patents

Washington, D.C. 20231

We are transmitting herewith the following attached items and information (as indicated with an "X"):

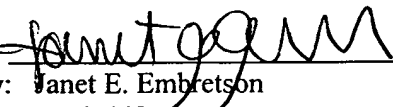
- ☒ Return postcard.
- ☒ Utility Patent Application under 37 CFR § 1.53(b) comprising:
 - ☒ Specification (1855 pgs, including claims numbered 1 through 43 and a 1 page Abstract).
 - ☒ Unsigned Combined Declaration and Power of Attorney (7 pgs).
- ☒ Communication Under 37 CFR § 1.821 (1 page).
- ☒ Two copies (CD-ROM) of the Sequence Listing in ASCII computer readable form in compliance with 37 CFR §§ 1.821(c) and 1.52(e)
- ☒ One copy (CD-ROM) of the Sequence Listing in ASCII computer readable form in compliance with 37 CFR §§ 1.821(e) and 1.52(e)
- ☒ Three transmittals for CD-ROMs in compliance ~~copies~~ with 37 CFR § 1.52(e)(3)(ii)

The filing fee (NOT ENCLOSED) will be calculated as follows:

| | No. Filed | No. Extra | Rate | Fee |
|---|-----------|-----------|--------|-----------|
| TOTAL CLAIMS | 57 - 20 = | 37 | x 18 = | \$666.00 |
| INDEPENDENT CLAIMS | 8 - 3 = | 5 | x 80 = | \$400.00 |
| [X] MULTIPLE DEPENDENT CLAIMS PRESENTED | | | | \$270.00 |
| BASIC FEE | | | | \$710.00 |
| TOTAL | | | | \$2046.00 |

THE FILING FEE WILL BE PAID UPON RECEIPT OF THE NOTICE TO FILE MISSING PARTS.

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938, Minneapolis, MN 55402 (612-373-6900)

By: 
Atty: Janet E. Embretson
Reg. No. 39,665

Customer Number 21186

"Express Mail" mailing label number: EL671641675US

Date of Deposit: June 23, 2001

This paper or fee is being deposited on the date indicated above with the United States Postal Service pursuant to 37 CFR 1.10, and is addressed to The Commissioner for Patents, Box Patent Application, Washington, D.C. 20231.

EXHIBIT II



In re Patent Application of: Sheng Quan et al.

Title: PLANT GENES INVOLVED IN DEFENSE AGAINST PATHOGENS

Attorney Docket No.: 1360.003US2

NPN

Receipt is hereby acknowledged for the following in the United States Patent and Trademark Office:

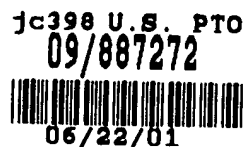
CONTENTS: UTILITY PATENT APPLICATION : Specification (1855 pgs, including claims numbered 1 through 43 and a 1 page Abstract); Unsigned Combined Declaration and Power of Attorney (7 pgs); Communication Under 37 CFR § 1.821 (1 page); Two copies (CD-ROM) of the Sequence Listing in ASCII computer readable form in compliance with 37 CFR §§ 1.821(c) and 1.52(e); One copy (CD-ROM) of the Sequence Listing in ASCII computer readable form in compliance with 37 CFR §§ 1.821(e) and 1.52(e); three transmittals for CD-ROMs in compliance ~~series~~ with 37 CFR § 1.52(e)(3)(ii); return postcard and transmittal sheet.

FILED WITHOUT APPLICATION FILING FEE.

EXPRESS MAIL LABEL NO. EL671641675US

Mailed: June 23, 2001

JEE





S/N Unknown

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | |
|-------------|---|-----------------|-------------|
| Applicant: | Sheng Quan et al. | Examiner: | Unknown |
| Serial No.: | Unknown | Group Art Unit: | Unknown |
| Filed: | Herewith | Docket: | 1360.003US2 |
| Title: | PLANT GENES INVOLVED IN DEFENSE AGAINST PATHOGENS | | |

COMMUNICATION UNDER 37 C.F.R. § 1.821

BOX PATENT APPLICATION

Commissioner for Patents

Washington, D.C. 20231

Sir:

To conform the above-referenced application to the requirements of 37 C.F.R. §§ 1.821 through 1.825, submitted herewith is an electronic copy (CD-ROM, in duplicate) of the SEQUENCE LISTING.

In accordance with 37 C.F.R. § 1.821(e), a copy of the above-submitted SEQUENCE LISTING in ASCII computer readable form is also submitted herewith.

Respectfully submitted,

SHENG QUAN ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6959

Date

June 23, 2001

By

Janet E. Embretson

Janet E. Embretson
Reg. No. 39,665

"Express Mail" mailing label number: EL671641675US

Date of Deposit: June 23, 2001

This paper or fee is being deposited on the date indicated above with the United States Postal Service pursuant to 37 CFR 1.10, and is addressed to The Commissioner for Patents, Box Patent Application, Washington, D.C. 20231.



Abstract

Methods to identify genes, the expression of which are altered in response to pathogen infection, are provided, as well as the genes identified thereby and their corresponding promoters.

5

In re Patent Application of: Sheng Quan et al.

Title: PLANT GENES INVOLVED IN DEFENSE AGAINST
PATHOGENS

Docket No.: 1360.003US2

Express Mail No. EL671641675US

Date Mailed: June 23, 2001

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